HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No.23 of 2006

Between:

Ch.A.N.Raju … Appellant

And

The Managing Director,

A.P.State Finance Corporation,

P.B.No.165, Abids, Hyderabad-1

and another.

… Respondents.

::JUDGMENT::

Counsel for the appellant: Sri B. Sri Rama Krishna

Counsel for the respondents: Sri Y.N. Lohita

6th January 2006

Per G.S. Singhvi, CJ

This appeal is illustrative of litigious perseverance of the appellant who has filed more than one cases for preventing the functionaries of Andhra Pradesh State Financial Corporation (for short 'the Corporation') from effecting recoveries of the amount due from him.

On an application made by the appellant, the Corporation sanctioned term loan of Rs.87,500/- and soft loan of Rs.25,000/- in his favour. Thereafter, the appellant is said to have approached Andhra Bank for sanction of working capital of Rs.2 lakhs. The latter is said to have accepted his request, but the amount was not disbursed and, on that account, the appellant's unit is said to have become sick. In 1986, the Corporation initiated action for recovery of loan etc., from the appellant. At on stage, some NRI friend of the appellant offered to pay Rs.83,521/- to the Corporation for clearing his loan account, but no final agreement appears to have been reached between the parties. Therefore, the Corporation initiated action under Section 29 of the State Financial Corporation Act, 1951. The appellant challenged the same in Writ Petition No.15 of 1993. He also filed WPMP No.3532 of 1993 for restraining the Corporation from taking over his unit. It, however, appears that he could not succeed in persuading the Single Bench in entertaining his prayer for interim relief. He then filed Writ Appeal No.235 of 1993 which was disposed of by the Division Bench on 16-3-1993 in the following terms:

> "Having heard the learned Advocates for the parties, we pass the following order:
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> The appellant will deposit Rs.75,000/- (Rupees seventy five thousand) as directed earlier by the learned Single Judge with the respondent-corporation, within further four weeks from today. The deposit of Rs.75,000/- will be strictly without prejudice to the rights and contentions of the appellant in the writ petition and will abide by the final result in the writ petition. It is further clarified that if ultimately the Court directs in the writ petition, the respondent to refund any part of Rs.75,000/- to the appellant and if the court further directs that the said refund should be made with appropriate rate of interest as directed by the Court, the respondent-Corporation will be liable to abide by such final directions of the Court in the writ petition.
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> Subject to these clarifications and the further time given for depositing Rs.75,000/-, this writ appeal is disposed of."

The appellant claims that even though he had deposited Rs.75,000/- in terms

of the aforementioned order of the Division Bench, the Corporation did not settle the matter and issued sale notice dated 28-8-2003 necessitating filing of fresh petition, which was registered as Writ Petition No.104 of 2004. He also filed WPMP No.172 of 2004 for staying of the sale notice dated 28-8-2003. By an order dated 14-2-2004, the learned Single Judge stayed the proceedings initiated by the Corporation. However, after hearing the parties, another learned Single Judge disposed of the writ petition vide order dated 6-12-2004 by directing the petitioner to make representation to the respondents for redressal of his so-called grievance. The relevant extracts of that order are reproduced below:

> "Having considered the submissions made by the petitioner, who appeared in person, and also taking into consideration the submissions made on behalf of the respondents, the petitioner's main grievance centers around the complaint that it is only due to inaction on the part of the respondents, the petitioner's venture could not succeed and as a result, he is entitled to the relief as sought for. In support, the petitioner refers to various proceedings and complains that the directions have not been complied. Similarly, on behalf of the respondents, it is pointed out that in spite of the directions, the amounts have not been paid and so they are entitled to make proper demands and that the action taken by the respondents is perfectly well within the provisions of the State Finance Corporation Act.
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> On appraisal of the chequered events as pointed out by both sides, it is seen that the petitioner has been fanatically making efforts to avail some relief in regard to discharge of his liability of loans obtained by him from the respondents. Apparently, the entire exercise could not see the light of the day nor the petitioner could succeed to make the unit functioning. It is seen that the project undertaken by the petitioner was invention of a rice transplanter-cum-injector, which could have contributed to the increased production of food grains. The petitioner takes credit for the invention and manufacture of proto-type machine. Be that as it may, there is no dispute to the availment of loan by him from the respondents, as long back as on 14-10-1980 and 11-11-1980, and execution of mortgage in respect of the land, building and unit. In view of the same, the petitioner cannot wriggle out of the obligations created thereunder and cannot take any shelter as such. However, in regard to any closure or other benefits, which he could be provided for all along, it is for the respondents to consider the same and give any benefit. Having regard to the nature and scope of enquiry under Article 226 of the Constitution of India, this Court cannot go into all such intricate facts nor can extend any indulgence thereunder. Therefore, in the circumstances, it would meet the ends of justice if the petitioner is permitted to make a representation in this regard to the respondents, which shall be considered by them from a proper perspective.
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> In the circumstances, the writ petition is, accordingly, disposed of with a

direction to the petitioner to submit his representation to the respondents within a period of four weeks from today, stating all the reasons, facts and circumstances, and seek relief to which he is entitled to, and, on receipt of such representation, the same shall be considered and disposed of by the respondents from a proper perspective in accordance with law after giving opportunity to the petitioner."

Thereafter, the appellant represented his cause before the concerned authority of the Corporation and prayed for settlement of his case under the scheme of one time settlement. The authority concerned accepted the appellant's plea and directed him to deposit Rs.13,125/- as a condition for re-examination of his case. However, he did not fulfill this condition. Therefore, his property was again advertised for auction. The appellant challenged this action of the Corporation in Writ Petition No.24453 of 2005. The learned Single Judge refused to entertain the appellant's prayer by observing that in exercise of power under Article 226 of the Constitution of India, the High Court cannot go into the disputed questions relating to accounts of the parties.

We have heard the learned counsel for the appellant at considerable length and carefully perused the record. In our opinion, the view expressed by the learned Single Judge on the ambit and scope of the High Court's power under Article 226 of the Constitution of India does not suffer from any legal infirmity. Rather, we are in complete agreement with him that disputed questions relating to accounts of the parties cannot be decided by this Court and the only remedy available to the appellant is to file civil suit.

For the reason stated above, the appeal is dismissed.

Before parting with the case, we deem it proper to mention that the learned Single Judge would have been well within his jurisdiction to dismiss the writ petition on the short ground that the Corporation, which is a juridical personality was not impleaded as a party to the writ petition. In this connection, a reference may be made to the decision of the Supreme Court in **Ranjitmal v. General Manager, Northern Railways, New Delhi and another**.

While dismissing the appeal, we make it clear that the appellant shall be entitled to prosecute his remedy in the Civil Court and dismissal of the Writ Petition and Appeal shall not adversely affect his cause before the Civil Court.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

6th January 2006

msv / svs